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AMENDED IN SENATE JUNE 14, 2016
AMENDED IN ASSEMBLY APRIL 14, 2016
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AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2556

Introduced by Assembly Member Nazarian

February 19, 2016

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2556, as amended, Nazarian. Density bonuses.

The Planning and Zoning Law requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents. That law makes an applicant ineligible for a density bonus if the housing development is proposed on property with existing or certain former dwelling units subject to specific affordability requirements, including a form of rent or price control through a public entity's valid exercise of its police power, or

on property with existing units occupied by lower or very low income households, unless the proposed housing development replaces those units as prescribed. That law defines “replace” for those purposes to mean, among other things, providing the same number of equivalent units to persons or families in the same or lower income categories.

This bill would revise that definition of “replace” to require a rebuttable presumption, based on certain federal data, regarding the proportion of lower income renter households that occupy existing units, if the income category of the households in occupancy is not known. The bill, if the property for the proposed housing development is subject to a form of rent or price control through a local government’s valid exercise of its police power and is or was occupied by a person or family with an income above lower income, would authorize the city, county, or city and county either to require replacement units to be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families, as specified, or to require the units to be replaced in compliance with the rent or price control ordinance of the jurisdiction. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes to Section 65915 of the Government Code, proposed by AB 2442 and AB 2501, that would become operative only if this bill and either or both of those bills are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65915 of the Government Code is
- 2 amended to read:
- 3 65915. (a) When an applicant seeks a density bonus for a
- 4 housing development within, or for the donation of land for housing
- 5 within, the jurisdiction of a city, county, or city and county, that
- 6 local government shall provide the applicant with incentives or

1 concessions for the production of housing units and child care
2 facilities as prescribed in this section. A city, county, or city and
3 county shall adopt an ordinance that specifies how compliance
4 with this section will be implemented. Failure to adopt an ordinance
5 shall not relieve a city, county, or city and county from complying
6 with this section.

7 (b) (1) A city, county, or city and county shall grant one density
8 bonus, the amount of which shall be as specified in subdivision
9 (f), and incentives or concessions, as described in subdivision (d),
10 when an applicant for a housing development seeks and agrees to
11 construct a housing development, excluding any units permitted
12 by the density bonus awarded pursuant to this section, that will
13 contain at least any one of the following:

14 (A) Ten percent of the total units of a housing development for
15 lower income households, as defined in Section 50079.5 of the
16 Health and Safety Code.

17 (B) Five percent of the total units of a housing development for
18 very low income households, as defined in Section 50105 of the
19 Health and Safety Code.

20 (C) A senior citizen housing development, as defined in Sections
21 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
22 residency based on age requirements for housing for older persons
23 pursuant to Section 798.76 or 799.5 of the Civil Code.

24 (D) Ten percent of the total dwelling units in a common interest
25 development, as defined in Section 4100 of the Civil Code, for
26 persons and families of moderate income, as defined in Section
27 50093 of the Health and Safety Code, provided that all units in the
28 development are offered to the public for purchase.

29 (2) For purposes of calculating the amount of the density bonus
30 pursuant to subdivision (f), an applicant who requests a density
31 bonus pursuant to this subdivision shall elect whether the bonus
32 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)
33 of paragraph (1).

34 (3) For the purposes of this section, “total units” or “total
35 dwelling units” does not include units added by a density bonus
36 awarded pursuant to this section or any local law granting a greater
37 density bonus.

38 (c) (1) An applicant shall agree to, and the city, county, or city
39 and county shall ensure, the continued affordability of all very low
40 and low-income rental units that qualified the applicant for the

1 award of the density bonus for 55 years or a longer period of time
2 if required by the construction or mortgage financing assistance
3 program, mortgage insurance program, or rental subsidy program.
4 Rents for the lower income density bonus units shall be set at an
5 affordable rent as defined in Section 50053 of the Health and Safety
6 Code.

7 (2) An applicant shall agree to, and the city, county, or city and
8 county shall ensure that, the initial occupant of all for-sale units
9 that qualified the applicant for the award of the density bonus are
10 persons and families of very low, low, or moderate income, as
11 required, and that the units are offered at an affordable housing
12 cost, as that cost is defined in Section 50052.5 of the Health and
13 Safety Code. The local government shall enforce an equity sharing
14 agreement, unless it is in conflict with the requirements of another
15 public funding source or law. The following apply to the equity
16 sharing agreement:

17 (A) Upon resale, the seller of the unit shall retain the value of
18 any improvements, the downpayment, and the seller's proportionate
19 share of appreciation. The local government shall recapture any
20 initial subsidy, as defined in subparagraph (B), and its proportionate
21 share of appreciation, as defined in subparagraph (C), which
22 amount shall be used within five years for any of the purposes
23 described in subdivision (e) of Section 33334.2 of the Health and
24 Safety Code that promote home ownership.

25 (B) For purposes of this subdivision, the local government's
26 initial subsidy shall be equal to the fair market value of the home
27 at the time of initial sale minus the initial sale price to the
28 moderate-income household, plus the amount of any downpayment
29 assistance or mortgage assistance. If upon resale the market value
30 is lower than the initial market value, then the value at the time of
31 the resale shall be used as the initial market value.

32 (C) For purposes of this subdivision, the local government's
33 proportionate share of appreciation shall be equal to the ratio of
34 the local government's initial subsidy to the fair market value of
35 the home at the time of initial sale.

36 (3) (A) An applicant shall be ineligible for a density bonus or
37 any other incentives or concessions under this section if the housing
38 development is proposed on any property that includes a parcel or
39 parcels on which rental dwelling units are or, if the dwelling units
40 have been vacated or demolished in the five-year period preceding

1 the application, have been subject to a recorded covenant,
2 ordinance, or law that restricts rents to levels affordable to persons
3 and families of lower or very low income; subject to any other
4 form of rent or price control through a public entity's valid exercise
5 of its police power; or occupied by lower or very low income
6 households, unless the proposed housing development replaces
7 those units, and either of the following applies:

8 (i) The proposed housing development, inclusive of the units
9 replaced pursuant to this paragraph, contains affordable units at
10 the percentages set forth in subdivision (b).

11 (ii) Each unit in the development, exclusive of a manager's unit
12 or units, is affordable to, and occupied by, either a lower or very
13 low income household.

14 (B) For the purposes of this paragraph, "replace" shall mean
15 either of the following:

16 (i) If any dwelling units described in subparagraph (A) are
17 occupied on the date of application, the proposed housing
18 development shall provide at least the same number of units of
19 equivalent size ~~or type, or both,~~ to be made available at affordable
20 rent or affordable housing cost to, and occupied by, persons and
21 families in the same or lower income category as those households
22 in occupancy. If the income category of the household in occupancy
23 is not known, it shall be rebuttably presumed that lower income
24 renter households occupied these units in the same proportion of
25 lower income renter households to all renter households within
26 the jurisdiction, as determined by the most recently available data
27 from the United States Department of Housing and Urban
28 Development's Comprehensive Housing Affordability Strategy
29 database. For unoccupied dwelling units described in subparagraph
30 (A) in a development with occupied units, the proposed housing
31 development shall provide units of equivalent size ~~or type, or both,~~
32 to be made available at affordable rent or affordable housing cost
33 to, and occupied by, persons and families in the same or lower
34 income category ~~in the same proportion of affordability as the~~
35 ~~occupied units. as the last household in occupancy. If the income~~
36 ~~category of the last household in occupancy is not known, it shall~~
37 ~~be rebuttably presumed that lower income renter households~~
38 ~~occupied these units in the same proportion of lower income renter~~
39 ~~households to all renter households within the jurisdiction, as~~
40 ~~determined by the most recently available data from the United~~

1 *States Department of Housing and Urban Development's*
2 *Comprehensive Housing Affordability Strategy database.* All
3 replacement calculations resulting in fractional units shall be
4 rounded up to the next whole number. If the replacement units will
5 be rental dwelling units, these units shall be subject to a recorded
6 affordability restriction for at least 55 years. If the proposed
7 development is for-sale units, the units replaced shall be subject
8 to paragraph (2).

9 (ii) If all dwelling units described in subparagraph (A) have
10 been vacated or demolished within the five-year period preceding
11 the application, the proposed housing development shall provide
12 at least the same number of units of equivalent size ~~or type, or~~
13 ~~both~~, as existed at the highpoint of those units in the five-year
14 period preceding the application to be made available at affordable
15 rent or affordable housing cost to, and occupied by, persons and
16 families in the same or lower income category as those persons
17 and families in occupancy at that time, if known. If the incomes
18 of the persons and families in occupancy at the highpoint is not
19 known, it shall be rebuttably presumed that low-income and very
20 low income renter households occupied these units in the same
21 proportion of low-income and very low income renter households
22 to all renter households within the jurisdiction, as determined by
23 the most recently available data from the United States Department
24 of Housing and Urban Development's Comprehensive Housing
25 Affordability Strategy database. All replacement calculations
26 resulting in fractional units shall be rounded up to the next whole
27 number. If the replacement units will be rental dwelling units,
28 these units shall be subject to a recorded affordability restriction
29 for at least 55 years. If the proposed development is for-sale units,
30 the units replaced shall be subject to paragraph (2).

31 (C) Notwithstanding subparagraph (B), for any dwelling unit
32 described in subparagraph (A) that is ~~or was~~ *was, within the*
33 *five-year period preceding the application*, subject to a form of
34 rent or price control through a local government's valid exercise
35 of its police power and that is or was occupied by persons or
36 families above lower income, the city, county, or city and county
37 may do either of the following:

38 (i) Require that the replacement units be made available at
39 affordable rent or affordable housing cost to, and occupied by,
40 low-income persons or families. If the replacement units will be

1 rental dwelling units, these units shall be subject to a recorded
2 affordability restriction for at least 55 years. If the proposed
3 development is for-sale units, the units replaced shall be subject
4 to paragraph (2).

5 (ii) Require that the units be replaced in compliance with the
6 jurisdiction's rent or price control ordinance, provided that each
7 unit described in subparagraph (A) is replaced. *Unless otherwise*
8 *required by the jurisdiction's rent or price control ordinance, these*
9 *units shall not be subject to a recorded affordability restriction.*

10 (D) *For purposes of this paragraph, "equivalent size" means*
11 *that the replacement units contain at least the same total number*
12 *of bedrooms as the units being replaced.*

13 ~~(D)~~

14 (E) Subparagraph (A) does not apply to an applicant seeking a
15 density bonus for a proposed housing development if his or her
16 application was submitted to, or processed by, a city, county, or
17 city and county before January 1, 2015.

18 (d) (1) An applicant for a density bonus pursuant to subdivision
19 (b) may submit to a city, county, or city and county a proposal for
20 the specific incentives or concessions that the applicant requests
21 pursuant to this section, and may request a meeting with the city,
22 county, or city and county. The city, county, or city and county
23 shall grant the concession or incentive requested by the applicant
24 unless the city, county, or city and county makes a written finding,
25 based upon substantial evidence, of any of the following:

26 (A) The concession or incentive is not required in order to
27 provide for affordable housing costs, as defined in Section 50052.5
28 of the Health and Safety Code, or for rents for the targeted units
29 to be set as specified in subdivision (c).

30 (B) The concession or incentive would have a specific, adverse
31 impact, as defined in paragraph (2) of subdivision (d) of Section
32 65589.5, upon public health and safety or the physical environment
33 or on any real property that is listed in the California Register of
34 Historical Resources and for which there is no feasible method to
35 satisfactorily mitigate or avoid the specific, adverse impact without
36 rendering the development unaffordable to low- and
37 moderate-income households.

38 (C) The concession or incentive would be contrary to state or
39 federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to

1 a city, county, or city and county a proposal for the waiver or
2 reduction of development standards that will have the effect of
3 physically precluding the construction of a development meeting
4 the criteria of subdivision (b) at the densities or with the
5 concessions or incentives permitted under this section, and may
6 request a meeting with the city, county, or city and county. If a
7 court finds that the refusal to grant a waiver or reduction of
8 development standards is in violation of this section, the court
9 shall award the plaintiff reasonable attorney's fees and costs of
10 suit. Nothing in this subdivision shall be interpreted to require a
11 local government to waive or reduce development standards if the
12 waiver or reduction would have a specific, adverse impact, as
13 defined in paragraph (2) of subdivision (d) of Section 65589.5,
14 upon health, safety, or the physical environment, and for which
15 there is no feasible method to satisfactorily mitigate or avoid the
16 specific adverse impact. Nothing in this subdivision shall be
17 interpreted to require a local government to waive or reduce
18 development standards that would have an adverse impact on any
19 real property that is listed in the California Register of Historical
20 Resources, or to grant any waiver or reduction that would be
21 contrary to state or federal law.

22 (2) A proposal for the waiver or reduction of development
23 standards pursuant to this subdivision shall neither reduce nor
24 increase the number of incentives or concessions to which the
25 applicant is entitled pursuant to subdivision (d).

26 (f) For the purposes of this chapter, "density bonus" means a
27 density increase over the otherwise maximum allowable residential
28 density as of the date of application by the applicant to the city,
29 county, or city and county. The applicant may elect to accept a
30 lesser percentage of density bonus. The amount of density bonus
31 to which the applicant is entitled shall vary according to the amount
32 by which the percentage of affordable housing units exceeds the
33 percentage established in subdivision (b).

34 (1) For housing developments meeting the criteria of
35 subparagraph (A) of paragraph (1) of subdivision (b), the density
36 bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20

1	11	21.5
2	12	23
3	13	24.5
4	14	26
5	15	27.5
6	17	30.5
7	18	32
8	19	33.5
9	20	35

10

11 (2) For housing developments meeting the criteria of
 12 subparagraph (B) of paragraph (1) of subdivision (b), the density
 13 bonus shall be calculated as follows:

14

15	Percentage Very Low Income Units	Percentage Density Bonus
16	5	20
17	6	22.5
18	7	25
19	8	27.5
20	9	30
21	10	32.5
22	11	35

23

24 (3) For housing developments meeting the criteria of
 25 subparagraph (C) of paragraph (1) of subdivision (b), the density
 26 bonus shall be 20 percent of the number of senior housing units.

27 (4) For housing developments meeting the criteria of
 28 subparagraph (D) of paragraph (1) of subdivision (b), the density
 29 bonus shall be calculated as follows:

30

31	Percentage Moderate-Income Units	Percentage Density Bonus
32	10	5
33	11	6
34	12	7
35	13	8
36	14	9
37	15	10
38	16	11
39	17	12
40	18	13

1	19	14
2	20	15
3	21	16
4	22	17
5	23	18
6	24	19
7	25	20
8	26	21
9	27	22
10	28	23
11	29	24
12	30	25
13	31	26
14	32	27
15	33	28
16	34	29
17	35	30
18	36	31
19	37	32
20	38	33
21	39	34
22	40	35

23
24 (5) All density calculations resulting in fractional units shall be
25 rounded up to the next whole number. The granting of a density
26 bonus shall not be interpreted, in and of itself, to require a general
27 plan amendment, local coastal plan amendment, zoning change,
28 or other discretionary approval.

29 (g) (1) When an applicant for a tentative subdivision map,
30 parcel map, or other residential development approval donates
31 land to a city, county, or city and county in accordance with this
32 subdivision, the applicant shall be entitled to a 15-percent increase
33 above the otherwise maximum allowable residential density for
34 the entire development, as follows:

35	Percentage Very Low Income	Percentage Density Bonus
36		
37	10	15
38	11	16
39	12	17
40	13	18

1	14	19
2	15	20
3	16	21
4	17	22
5	18	23
6	19	24
7	20	25
8	21	26
9	22	27
10	23	28
11	24	29
12	25	30
13	26	31
14	27	32
15	28	33
16	29	34
17	30	35

18
19 (2) This increase shall be in addition to any increase in density
20 mandated by subdivision (b), up to a maximum combined mandated
21 density increase of 35 percent if an applicant seeks an increase
22 pursuant to both this subdivision and subdivision (b). All density
23 calculations resulting in fractional units shall be rounded up to the
24 next whole number. Nothing in this subdivision shall be construed
25 to enlarge or diminish the authority of a city, county, or city and
26 county to require a developer to donate land as a condition of
27 development. An applicant shall be eligible for the increased
28 density bonus described in this subdivision if all of the following
29 conditions are met:

30 (A) The applicant donates and transfers the land no later than
31 the date of approval of the final subdivision map, parcel map, or
32 residential development application.

33 (B) The developable acreage and zoning classification of the
34 land being transferred are sufficient to permit construction of units
35 affordable to very low income households in an amount not less
36 than 10 percent of the number of residential units of the proposed
37 development.

38 (C) The transferred land is at least one acre in size or of
39 sufficient size to permit development of at least 40 units, has the
40 appropriate general plan designation, is appropriately zoned with

1 appropriate development standards for development at the density
2 described in paragraph (3) of subdivision (c) of Section 65583.2,
3 and is or will be served by adequate public facilities and
4 infrastructure.

5 (D) The transferred land shall have all of the permits and
6 approvals, other than building permits, necessary for the
7 development of the very low income housing units on the
8 transferred land, not later than the date of approval of the final
9 subdivision map, parcel map, or residential development
10 application, except that the local government may subject the
11 proposed development to subsequent design review to the extent
12 authorized by subdivision (i) of Section 65583.2 if the design is
13 not reviewed by the local government prior to the time of transfer.

14 (E) The transferred land and the affordable units shall be subject
15 to a deed restriction ensuring continued affordability of the units
16 consistent with paragraphs (1) and (2) of subdivision (c), which
17 shall be recorded on the property at the time of the transfer.

18 (F) The land is transferred to the local agency or to a housing
19 developer approved by the local agency. The local agency may
20 require the applicant to identify and transfer the land to the
21 developer.

22 (G) The transferred land shall be within the boundary of the
23 proposed development or, if the local agency agrees, within
24 one-quarter mile of the boundary of the proposed development.

25 (H) A proposed source of funding for the very low income units
26 shall be identified not later than the date of approval of the final
27 subdivision map, parcel map, or residential development
28 application.

29 (h) (1) When an applicant proposes to construct a housing
30 development that conforms to the requirements of subdivision (b)
31 and includes a child care facility that will be located on the
32 premises of, as part of, or adjacent to, the project, the city, county,
33 or city and county shall grant either of the following:

34 (A) An additional density bonus that is an amount of square
35 feet of residential space that is equal to or greater than the amount
36 of square feet in the child care facility.

37 (B) An additional concession or incentive that contributes
38 significantly to the economic feasibility of the construction of the
39 child care facility.

1 (2) The city, county, or city and county shall require, as a
2 condition of approving the housing development, that the following
3 occur:

4 (A) The child care facility shall remain in operation for a period
5 of time that is as long as or longer than the period of time during
6 which the density bonus units are required to remain affordable
7 pursuant to subdivision (c).

8 (B) Of the children who attend the child care facility, the
9 children of very low income households, lower income households,
10 or families of moderate income shall equal a percentage that is
11 equal to or greater than the percentage of dwelling units that are
12 required for very low income households, lower income
13 households, or families of moderate income pursuant to subdivision
14 (b).

15 (3) Notwithstanding any requirement of this subdivision, a city,
16 county, or city and county shall not be required to provide a density
17 bonus or concession for a child care facility if it finds, based upon
18 substantial evidence, that the community has adequate child care
19 facilities.

20 (4) “Child care facility,” as used in this section, means a child
21 day care facility other than a family day care home, including, but
22 not limited to, infant centers, preschools, extended day care
23 facilities, and schoolage child care centers.

24 (i) “Housing development,” as used in this section, means a
25 development project for five or more residential units. For the
26 purposes of this section, “housing development” also includes a
27 subdivision or common interest development, as defined in Section
28 4100 of the Civil Code, approved by a city, county, or city and
29 county and consists of residential units or unimproved residential
30 lots and either a project to substantially rehabilitate and convert
31 an existing commercial building to residential use or the substantial
32 rehabilitation of an existing multifamily dwelling, as defined in
33 subdivision (d) of Section 65863.4, where the result of the
34 rehabilitation would be a net increase in available residential units.
35 For the purpose of calculating a density bonus, the residential units
36 shall be on contiguous sites that are the subject of one development
37 application, but do not have to be based upon individual
38 subdivision maps or parcels. The density bonus shall be permitted
39 in geographic areas of the housing development other than the
40 areas where the units for the lower income households are located.

1 (j) (1) The granting of a concession or incentive shall not be
2 interpreted, in and of itself, to require a general plan amendment,
3 local coastal plan amendment, zoning change, or other discretionary
4 approval. This provision is declaratory of existing law.

5 (2) Except as provided in subdivisions (d) and (e), the granting
6 of a density bonus shall not be interpreted to require the waiver of
7 a local ordinance or provisions of a local ordinance unrelated to
8 development standards.

9 (k) For the purposes of this chapter, concession or incentive
10 means any of the following:

11 (1) A reduction in site development standards or a modification
12 of zoning code requirements or architectural design requirements
13 that exceed the minimum building standards approved by the
14 California Building Standards Commission as provided in Part 2.5
15 (commencing with Section 18901) of Division 13 of the Health
16 and Safety Code, including, but not limited to, a reduction in
17 setback and square footage requirements and in the ratio of
18 vehicular parking spaces that would otherwise be required that
19 results in identifiable, financially sufficient, and actual cost
20 reductions.

21 (2) Approval of mixed-use zoning in conjunction with the
22 housing project if commercial, office, industrial, or other land uses
23 will reduce the cost of the housing development and if the
24 commercial, office, industrial, or other land uses are compatible
25 with the housing project and the existing or planned development
26 in the area where the proposed housing project will be located.

27 (3) Other regulatory incentives or concessions proposed by the
28 developer or the city, county, or city and county that result in
29 identifiable, financially sufficient, and actual cost reductions.

30 (l) Subdivision (k) does not limit or require the provision of
31 direct financial incentives for the housing development, including
32 the provision of publicly owned land, by the city, county, or city
33 and county, or the waiver of fees or dedication requirements.

34 (m) This section does not supersede or in any way alter or lessen
35 the effect or application of the California Coastal Act of 1976
36 (Division 20 (commencing with Section 30000) of the Public
37 Resources Code).

38 (n) If permitted by local ordinance, nothing in this section shall
39 be construed to prohibit a city, county, or city and county from
40 granting a density bonus greater than what is described in this

1 section for a development that meets the requirements of this
2 section or from granting a proportionately lower density bonus
3 than what is required by this section for developments that do not
4 meet the requirements of this section.

5 (o) For purposes of this section, the following definitions shall
6 apply:

7 (1) “Development standard” includes a site or construction
8 condition, including, but not limited to, a height limitation, a
9 setback requirement, a floor area ratio, an onsite open-space
10 requirement, or a parking ratio that applies to a residential
11 development pursuant to any ordinance, general plan element,
12 specific plan, charter, or other local condition, law, policy,
13 resolution, or regulation.

14 (2) “Maximum allowable residential density” means the density
15 allowed under the zoning ordinance and land use element of the
16 general plan, or if a range of density is permitted, means the
17 maximum allowable density for the specific zoning range and land
18 use element of the general plan applicable to the project. Where
19 the density allowed under the zoning ordinance is inconsistent
20 with the density allowed under the land use element of the general
21 plan, the general plan density shall prevail.

22 (p) (1) Except as provided in paragraphs (2) and (3), upon the
23 request of the developer, a city, county, or city and county shall
24 not require a vehicular parking ratio, inclusive of handicapped and
25 guest parking, of a development meeting the criteria of subdivisions
26 (b) and (c), that exceeds the following ratios:

27 (A) Zero to one bedroom: one onsite parking space.

28 (B) Two to three bedrooms: two onsite parking spaces.

29 (C) Four and more bedrooms: two and one-half parking spaces.

30 (2) Notwithstanding paragraph (1), if a development includes
31 the maximum percentage of low- or very low income units
32 provided for in paragraphs (1) and (2) of subdivision (f) and is
33 located within one-half mile of a major transit stop, as defined in
34 subdivision (b) of Section 21155 of the Public Resources Code,
35 and there is unobstructed access to the major transit stop from the
36 development, then, upon the request of the developer, a city,
37 county, or city and county shall not impose a vehicular parking
38 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
39 spaces per bedroom. For purposes of this subdivision, a
40 development shall have unobstructed access to a major transit stop

1 if a resident is able to access the major transit stop without
2 encountering natural or constructed impediments.

3 (3) Notwithstanding paragraph (1), if a development consists
4 solely of rental units, exclusive of a manager's unit or units, with
5 an affordable housing cost to lower income families, as provided
6 in Section 50052.5 of the Health and Safety Code, then, upon the
7 request of the developer, a city, county, or city and county shall
8 not impose a vehicular parking ratio, inclusive of handicapped and
9 guest parking, that exceeds the following ratios:

10 (A) If the development is located within one-half mile of a major
11 transit stop, as defined in subdivision (b) of Section 21155 of the
12 Public Resources Code, and there is unobstructed access to the
13 major transit stop from the development, the ratio shall not exceed
14 0.5 spaces per unit.

15 (B) If the development is a for-rent housing development for
16 individuals who are 62 years of age or older that complies with
17 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
18 0.5 spaces per unit. The development shall have either paratransit
19 service or unobstructed access, within one-half mile, to fixed bus
20 route service that operates at least eight times per day.

21 (C) If the development is a special needs housing development,
22 as defined in Section 51312 of the Health and Safety Code, the
23 ratio shall not exceed 0.3 spaces per unit. The development shall
24 have either paratransit service or unobstructed access, within
25 one-half mile, to fixed bus route service that operates at least eight
26 times per day.

27 (4) If the total number of parking spaces required for a
28 development is other than a whole number, the number shall be
29 rounded up to the next whole number. For purposes of this
30 subdivision, a development may provide on-site parking through
31 tandem parking or uncovered parking, but not through on-street
32 parking.

33 (5) This subdivision shall apply to a development that meets
34 the requirements of subdivisions (b) and (c), but only at the request
35 of the applicant. An applicant may request parking incentives or
36 concessions beyond those provided in this subdivision pursuant
37 to subdivision (d).

38 (6) This subdivision does not preclude a city, county, or city
39 and county from reducing or eliminating a parking requirement
40 for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low- and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

SEC. 1.3. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. ~~All cities, counties, or cities and counties~~ A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

1 (B) Five percent of the total units of a housing development for
2 very low income households, as defined in Section 50105 of the
3 Health and Safety Code.

4 (C) A senior citizen housing development, as defined in Sections
5 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
6 residency based on age requirements for housing for older persons
7 pursuant to Section 798.76 or 799.5 of the Civil Code.

8 (D) Ten percent of the total dwelling units in a common interest
9 development, as defined in Section 4100 of the Civil Code, for
10 persons and families of moderate income, as defined in Section
11 50093 of the Health and Safety Code, provided that all units in the
12 development are offered to the public for purchase.

13 (E) *Ten percent of the total units of a housing development for*
14 *transitional foster youth, as defined in Section 66025.9 of the*
15 *Education Code, disabled veterans, as defined in Section 18541,*
16 *or homeless persons, as defined in the federal McKinney-Vento*
17 *Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units*
18 *described in this subparagraph shall be subject to a recorded*
19 *affordability restriction of 55 years and shall be provided at the*
20 *same affordability level as very low income units.*

21 (2) For purposes of calculating the amount of the density bonus
22 pursuant to subdivision (f), an applicant who requests a density
23 bonus pursuant to this subdivision shall elect whether the bonus
24 shall be awarded on the basis of subparagraph (A), (B), (C), ~~or (D)~~
25 *(D), or (E)* of paragraph (1).

26 (3) For the purposes of this section, “total units” or “total
27 dwelling units” does not include units added by a density bonus
28 awarded pursuant to this section or any local law granting a greater
29 density bonus.

30 (c) (1) An applicant shall agree to, and the city, county, or city
31 and county shall ensure, the continued affordability of all very low
32 and low-income rental units that qualified the applicant for the
33 award of the density bonus for 55 years or a longer period of time
34 if required by the construction or mortgage financing assistance
35 program, mortgage insurance program, or rental subsidy program.
36 Rents for the lower income density bonus units shall be set at an
37 affordable rent as defined in Section 50053 of the Health and Safety
38 Code.

39 (2) An applicant shall agree to, and the city, county, or city and
40 county shall ensure that, the initial occupant of all for-sale units

1 that qualified the applicant for the award of the density bonus are
2 persons and families of very low, low, or moderate income, as
3 required, and that the units are offered at an affordable housing
4 cost, as that cost is defined in Section 50052.5 of the Health and
5 Safety Code. The local government shall enforce an equity sharing
6 agreement, unless it is in conflict with the requirements of another
7 public funding source or law. The following apply to the equity
8 sharing agreement:

9 (A) Upon resale, the seller of the unit shall retain the value of
10 any improvements, the downpayment, and the seller's proportionate
11 share of appreciation. The local government shall recapture any
12 initial subsidy, as defined in subparagraph (B), and its proportionate
13 share of appreciation, as defined in subparagraph (C), which
14 amount shall be used within five years for any of the purposes
15 described in subdivision (e) of Section 33334.2 of the Health and
16 Safety Code that promote home ownership.

17 (B) For purposes of this subdivision, the local government's
18 initial subsidy shall be equal to the fair market value of the home
19 at the time of initial sale minus the initial sale price to the
20 moderate-income household, plus the amount of any downpayment
21 assistance or mortgage assistance. If upon resale the market value
22 is lower than the initial market value, then the value at the time of
23 the resale shall be used as the initial market value.

24 (C) For purposes of this subdivision, the local government's
25 proportionate share of appreciation shall be equal to the ratio of
26 the local government's initial subsidy to the fair market value of
27 the home at the time of initial sale.

28 (3) (A) An applicant shall be ineligible for a density bonus or
29 any other incentives or concessions under this section if the housing
30 development is proposed on any property that includes a parcel or
31 parcels on which rental dwelling units are or, if the dwelling units
32 have been vacated or demolished in the five-year period preceding
33 the application, have been subject to a recorded covenant,
34 ordinance, or law that restricts rents to levels affordable to persons
35 and families of lower or very low income; subject to any other
36 form of rent or price control through a public entity's valid exercise
37 of its police power; or occupied by lower or very low income
38 households, unless the proposed housing development replaces
39 those units, and either of the following applies:

1 (i) The proposed housing development, inclusive of the units
2 replaced pursuant to this paragraph, contains affordable units at
3 the percentages set forth in subdivision (b).

4 (ii) Each unit in the development, exclusive of a manager's unit
5 or units, is affordable to, and occupied by, either a lower or very
6 low income household.

7 (B) For the purposes of this paragraph, "replace" shall mean
8 either of the following:

9 (i) If any dwelling units described in subparagraph (A) are
10 occupied on the date of application, the proposed housing
11 development shall provide at least the same number of units of
12 equivalent size ~~or type, or both~~, to be made available at affordable
13 rent or affordable housing cost to, and occupied by, persons and
14 families in the same or lower income category as those households
15 in occupancy. *If the income category of the household in occupancy*
16 *is not known, it shall be rebuttably presumed that lower income*
17 *renter households occupied these units in the same proportion of*
18 *lower income renter households to all renter households within*
19 *the jurisdiction, as determined by the most recently available data*
20 *from the United States Department of Housing and Urban*
21 *Development's Comprehensive Housing Affordability Strategy*
22 *database. For unoccupied dwelling units described in subparagraph*
23 *(A) in a development with occupied units, the proposed housing*
24 *development shall provide units of equivalent size ~~or type, or both~~,*
25 *to be made available at affordable rent or affordable housing cost*
26 *to, and occupied by, persons and families in the same or lower*
27 *income category ~~in the same proportion of affordability as the~~*
28 *~~occupied units~~, as the last household in occupancy. If the income*
29 *category of the last household in occupancy is not known, it shall*
30 *be rebuttably presumed that lower income renter households*
31 *occupied these units in the same proportion of lower income renter*
32 *households to all renter households within the jurisdiction, as*
33 *determined by the most recently available data from the United*
34 *States Department of Housing and Urban Development's*
35 *Comprehensive Housing Affordability Strategy database. All*
36 *replacement calculations resulting in fractional units shall be*
37 *rounded up to the next whole number. If the replacement units will*
38 *be rental dwelling units, these units shall be subject to a recorded*
39 *affordability restriction for at least 55 years. If the proposed*

1 development is for-sale units, the units replaced shall be subject
2 to paragraph (2).

3 (ii) If all dwelling units described in subparagraph (A) have
4 been vacated or demolished within the five-year period preceding
5 the application, the proposed housing development shall provide
6 at least the same number of units of equivalent size ~~or type, or~~
7 ~~both~~, as existed at the highpoint of those units in the five-year
8 period preceding the application to be made available at affordable
9 rent or affordable housing cost to, and occupied by, persons and
10 families in the same or lower income category as those persons
11 and families in occupancy at that time, if known. If the incomes
12 of the persons and families in occupancy at the highpoint is not
13 known, ~~then one-half of the required units shall be made available~~
14 ~~at affordable rent or affordable housing cost to, and occupied by,~~
15 *it shall be rebuttably presumed that low-income and very low*
16 *income renter households occupied these units in the same*
17 *proportion of low-income and very low income persons and*
18 *families and one-half of the required units shall be made available*
19 *for rent at affordable housing costs to, and occupied by,*
20 *low-income persons and families; renter households to all renter*
21 *households within the jurisdiction, as determined by the most*
22 *recently available data from the United States Department of*
23 *Housing and Urban Development's Comprehensive Housing*
24 *Affordability Strategy database. All replacement calculations*
25 *resulting in fractional units shall be rounded up to the next whole*
26 *number. If the replacement units will be rental dwelling units,*
27 *these units shall be subject to a recorded affordability restriction*
28 *for at least 55 years. If the proposed development is for-sale units,*
29 *the units replaced shall be subject to paragraph (2).*

30 (C) *Notwithstanding subparagraph (B), for any dwelling unit*
31 *described in subparagraph (A) that is or was, within the five-year*
32 *period preceding the application, subject to a form of rent or price*
33 *control through a local government's valid exercise of its police*
34 *power and that is or was occupied by persons or families above*
35 *lower income, the city, county, or city and county may do either*
36 *of the following:*

37 (i) *Require that the replacement units be made available at*
38 *affordable rent or affordable housing cost to, and occupied by,*
39 *low-income persons or families. If the replacement units will be*
40 *rental dwelling units, these units shall be subject to a recorded*

1 *affordability restriction for at least 55 years. If the proposed*
2 *development is for-sale units, the units replaced shall be subject*
3 *to paragraph (2).*

4 *(ii) Require that the units be replaced in compliance with the*
5 *jurisdiction's rent or price control ordinance, provided that each*
6 *unit described in subparagraph (A) is replaced. Unless otherwise*
7 *required by the jurisdiction's rent or price control ordinance, these*
8 *units shall not be subject to a recorded affordability restriction.*

9 *(D) For purposes of this paragraph, "equivalent size" means*
10 *that the replacement units contain at least the same total number*
11 *of bedrooms as the units being replaced.*

12 ~~(C) Paragraph (3) of subdivision (e)~~

13 *(E) Subparagraph (A) does not apply to an applicant seeking*
14 *a density bonus for a proposed housing development if his or her*
15 *application was submitted to, or processed by, a city, county, or*
16 *city and county before January 1, 2015.*

17 *(d) (1) An applicant for a density bonus pursuant to subdivision*
18 *(b) may submit to a city, county, or city and county a proposal for*
19 *the specific incentives or concessions that the applicant requests*
20 *pursuant to this section, and may request a meeting with the city,*
21 *county, or city and county. The city, county, or city and county*
22 *shall grant the concession or incentive requested by the applicant*
23 *unless the city, county, or city and county makes a written finding,*
24 *based upon substantial evidence, of any of the following:*

25 *(A) The concession or incentive is not required in order to*
26 *provide for affordable housing costs, as defined in Section 50052.5*
27 *of the Health and Safety Code, or for rents for the targeted units*
28 *to be set as specified in subdivision (c).*

29 *(B) The concession or incentive would have a ~~specific~~ specific,*
30 *adverse impact, as defined in paragraph (2) of subdivision (d) of*
31 *Section 65589.5, upon public health and safety or the physical*
32 *environment or on any real property that is listed in the California*
33 *Register of Historical Resources and for which there is no feasible*
34 *method to satisfactorily mitigate or avoid the ~~specific~~ specific,*
35 *adverse impact without rendering the development unaffordable*
36 *to low- and moderate-income households.*

37 *(C) The concession or incentive would be contrary to state or*
38 *federal law.*

39 *(2) The applicant shall receive the following number of*
40 *incentives or concessions:*

1 (A) One incentive or concession for projects that include at least
2 10 percent of the total units for lower income households, at least
3 5 percent for very low income households, or at least 10 percent
4 for persons and families of moderate income in a common interest
5 development.

6 (B) Two incentives or concessions for projects that include at
7 least 20 percent of the total units for lower income households, at
8 least 10 percent for very low income households, or at least 20
9 percent for persons and families of moderate income in a common
10 interest development.

11 (C) Three incentives or concessions for projects that include at
12 least 30 percent of the total units for lower income households, at
13 least 15 percent for very low income households, or at least 30
14 percent for persons and families of moderate income in a common
15 interest development.

16 (3) The applicant may initiate judicial proceedings if the city,
17 county, or city and county refuses to grant a requested density
18 bonus, incentive, or concession. If a court finds that the refusal to
19 grant a requested density bonus, incentive, or concession is in
20 violation of this section, the court shall award the plaintiff
21 reasonable attorney's fees and costs of suit. Nothing in this
22 subdivision shall be interpreted to require a local government to
23 grant an incentive or concession that has a specific, adverse impact,
24 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
25 upon health, safety, or the physical environment, and for which
26 there is no feasible method to satisfactorily mitigate or avoid the
27 specific adverse impact. Nothing in this subdivision shall be
28 interpreted to require a local government to grant an incentive or
29 concession that would have an adverse impact on any real property
30 that is listed in the California Register of Historical Resources.
31 The city, county, or city and county shall establish procedures for
32 carrying out this section, that shall include legislative body
33 approval of the means of compliance with this section.

34 (e) (1) In no case may a city, county, or city and county apply
35 any development standard that will have the effect of physically
36 precluding the construction of a development meeting the criteria
37 of subdivision (b) at the densities or with the concessions or
38 incentives permitted by this section. An applicant may submit to
39 a city, county, or city and county a proposal for the waiver or
40 reduction of development standards that will have the effect of

physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23

1	13	24.5
2	14	26
3	15	27.5
4	17	30.5
5	18	32
6	19	33.5
7	20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11

1	17	12
2	18	13
3	19	14
4	20	15
5	21	16
6	22	17
7	23	18
8	24	19
9	25	20
10	26	21
11	27	22
12	28	23
13	29	24
14	30	25
15	31	26
16	32	27
17	33	28
18	34	29
19	35	30
20	36	31
21	37	32
22	38	33
23	39	34
24	40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16

1	12	17
2	13	18
3	14	19
4	15	20
5	16	21
6	17	22
7	18	23
8	19	24
9	20	25
10	21	26
11	22	27
12	23	28
13	24	29
14	25	30
15	26	31
16	27	32
17	28	33
18	29	34
19	30	35

20

21 (2) This increase shall be in addition to any increase in density
22 mandated by subdivision (b), up to a maximum combined mandated
23 density increase of 35 percent if an applicant seeks an increase
24 pursuant to both this subdivision and subdivision (b). All density
25 calculations resulting in fractional units shall be rounded up to the
26 next whole number. Nothing in this subdivision shall be construed
27 to enlarge or diminish the authority of a city, county, or city and
28 county to require a developer to donate land as a condition of
29 development. An applicant shall be eligible for the increased
30 density bonus described in this subdivision if all of the following
31 conditions are met:

32 (A) The applicant donates and transfers the land no later than
33 the date of approval of the final subdivision map, parcel map, or
34 residential development application.

35 (B) The developable acreage and zoning classification of the
36 land being transferred are sufficient to permit construction of units
37 affordable to very low income households in an amount not less
38 than 10 percent of the number of residential units of the proposed
39 development.

1 (C) The transferred land is at least one acre in size or of
2 sufficient size to permit development of at least 40 units, has the
3 appropriate general plan designation, is appropriately zoned with
4 appropriate development standards for development at the density
5 described in paragraph (3) of subdivision (c) of Section 65583.2,
6 and is or will be served by adequate public facilities and
7 infrastructure.

8 (D) The transferred land shall have all of the permits and
9 approvals, other than building permits, necessary for the
10 development of the very low income housing units on the
11 transferred land, not later than the date of approval of the final
12 subdivision map, parcel map, or residential development
13 application, except that the local government may subject the
14 proposed development to subsequent design review to the extent
15 authorized by subdivision (i) of Section 65583.2 if the design is
16 not reviewed by the local government prior to the time of transfer.

17 (E) The transferred land and the affordable units shall be subject
18 to a deed restriction ensuring continued affordability of the units
19 consistent with paragraphs (1) and (2) of subdivision (c), which
20 shall be recorded on the property at the time of the transfer.

21 (F) The land is transferred to the local agency or to a housing
22 developer approved by the local agency. The local agency may
23 require the applicant to identify and transfer the land to the
24 developer.

25 (G) The transferred land shall be within the boundary of the
26 proposed development or, if the local agency agrees, within
27 one-quarter mile of the boundary of the proposed development.

28 (H) A proposed source of funding for the very low income units
29 shall be identified not later than the date of approval of the final
30 subdivision map, parcel map, or residential development
31 application.

32 (h) (1) When an applicant proposes to construct a housing
33 development that conforms to the requirements of subdivision (b)
34 and includes a child care facility that will be located on the
35 premises of, as part of, or adjacent to, the project, the city, county,
36 or city and county shall grant either of the following:

37 (A) An additional density bonus that is an amount of square
38 feet of residential space that is equal to or greater than the amount
39 of square feet in the child care facility.

1 (B) An additional concession or incentive that contributes
2 significantly to the economic feasibility of the construction of the
3 child care facility.

4 (2) The city, county, or city and county shall require, as a
5 condition of approving the housing development, that the following
6 occur:

7 (A) The child care facility shall remain in operation for a period
8 of time that is as long as or longer than the period of time during
9 which the density bonus units are required to remain affordable
10 pursuant to subdivision (c).

11 (B) Of the children who attend the child care facility, the
12 children of very low income households, lower income households,
13 or families of moderate income shall equal a percentage that is
14 equal to or greater than the percentage of dwelling units that are
15 required for very low income households, lower income
16 households, or families of moderate income pursuant to subdivision
17 (b).

18 (3) Notwithstanding any requirement of this subdivision, a city,
19 county, or city and county shall not be required to provide a density
20 bonus or concession for a child care facility if it finds, based upon
21 substantial evidence, that the community has adequate child care
22 facilities.

23 (4) “Child care facility,” as used in this section, means a child
24 day care facility other than a family day care home, including, but
25 not limited to, infant centers, preschools, extended day care
26 facilities, and schoolage child care centers.

27 (i) “Housing development,” as used in this section, means a
28 development project for five or more residential units. For the
29 purposes of this section, “housing development” also includes a
30 subdivision or common interest development, as defined in Section
31 4100 of the Civil Code, approved by a city, county, or city and
32 county and consists of residential units or unimproved residential
33 lots and either a project to substantially rehabilitate and convert
34 an existing commercial building to residential use or the substantial
35 rehabilitation of an existing multifamily dwelling, as defined in
36 subdivision (d) of Section 65863.4, where the result of the
37 rehabilitation would be a net increase in available residential units.
38 For the purpose of calculating a density bonus, the residential units
39 shall be on contiguous sites that are the subject of one development
40 application, but do not have to be based upon individual

subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2) and (3), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low- or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking

1 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
2 spaces per bedroom. For purposes of this subdivision, a
3 development shall have unobstructed access to a major transit stop
4 if a resident is able to access the major transit stop without
5 encountering natural or constructed impediments.

6 (3) Notwithstanding paragraph (1), if a development consists
7 solely of rental units, exclusive of a manager's unit or units, with
8 an affordable housing cost to lower income families, as provided
9 in Section 50052.5 of the Health and Safety Code, then, upon the
10 request of the developer, a city, county, or city and county shall
11 not impose a vehicular parking ratio, inclusive of handicapped and
12 guest parking, that exceeds the following ratios:

13 (A) If the development is located within one-half mile of a major
14 transit stop, as defined in subdivision (b) of Section 21155 of the
15 Public Resources Code, and there is unobstructed access to the
16 major transit stop from the development, the ratio shall not exceed
17 0.5 spaces per unit.

18 (B) If the development is a for-rent housing development for
19 individuals who are 62 years of age or older that complies with
20 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
21 0.5 spaces per unit. The development shall have either paratransit
22 service or unobstructed access, within one-half mile, to fixed bus
23 route service that operates at least eight times per day.

24 (C) If the development is a special needs housing development,
25 as defined in Section 51312 of the Health and Safety Code, the
26 ratio shall not exceed 0.3 spaces per unit. The development shall
27 have either paratransit service or unobstructed access, within
28 one-half mile, to fixed bus route service that operates at least eight
29 times per day.

30 (4) If the total number of parking spaces required for a
31 development is other than a whole number, the number shall be
32 rounded up to the next whole number. For purposes of this
33 subdivision, a development may provide ~~on-site~~ *onsite* parking
34 through tandem parking or uncovered parking, but not through
35 ~~on-street~~ *onstreet* parking.

36 (5) This subdivision shall apply to a development that meets
37 the requirements of subdivisions (b) and (c), but only at the request
38 of the applicant. An applicant may request parking incentives or
39 concessions beyond those provided in this subdivision pursuant
40 to subdivision (d).

1 (6) This subdivision does not preclude a city, county, or city
2 and county from reducing or eliminating a parking requirement
3 for development projects of any type in any location.

4 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
5 city and county, or an independent consultant has conducted an
6 areawide or jurisdictionwide parking study in the last seven years,
7 then the city, county, or city and county may impose a higher
8 vehicular parking ratio not to exceed the ratio described in
9 paragraph (1), based upon substantial evidence found in the parking
10 study, that includes, but is not limited to, an analysis of parking
11 availability, differing levels of transit access, walkability access
12 to transit services, the potential for shared parking, the effect of
13 parking requirements on the cost of market-rate and subsidized
14 developments, and the lower rates of car ownership for low- and
15 very low income individuals, including seniors and special needs
16 individuals. The city, county, or city and county shall pay the costs
17 of any new study. The city, county, or city and county shall make
18 findings, based on a parking study completed in conformity with
19 this paragraph, supporting the need for the higher parking ratio.

20 *SEC. 1.5. Section 65915 of the Government Code is amended*
21 *to read:*

22 65915. (a) (1) When an applicant seeks a density bonus for
23 a housing development within, or for the donation of land for
24 housing within, the jurisdiction of a city, county, or city and county,
25 that local government shall ~~provide the applicant with incentives~~
26 ~~or concessions for the production of housing units and child care~~
27 ~~facilities as prescribed in this section. All cities, counties, or cities~~
28 ~~and counties comply with this section. A city, county, or city and~~
29 ~~county shall adopt an ordinance that specifies how compliance~~
30 ~~with this section will be implemented. Failure to adopt an ordinance~~
31 ~~shall not relieve a city, county, or city and county from complying~~
32 ~~with this section.~~

33 (2) *A local government shall not condition the submission,*
34 *review, or approval of an application pursuant to this chapter on*
35 *the preparation of an additional report or study that is not*
36 *otherwise required by state law, including this section. This*
37 *subdivision does not prohibit a local government from requiring*
38 *an applicant to provide reasonable documentation to establish*
39 *eligibility for a requested density bonus, incentives or concessions,*
40 *as described in subdivision (d), waivers or reductions of*

1 *development standards, as described in subdivision (e), and*
2 *parking ratios, as described in subdivision (p).*

3 *(3) In order to provide for the expeditious processing of a*
4 *density bonus application, the local government shall do all of the*
5 *following:*

6 *(A) Adopt procedures and timelines for processing a density*
7 *bonus application.*

8 *(B) Provide a list of all documents and information required to*
9 *be submitted with the density bonus application in order for the*
10 *density bonus application to be deemed complete. This list shall*
11 *be consistent with this chapter.*

12 *(C) Notify the applicant for a density bonus whether the*
13 *application is complete in a manner consistent with Section 65943.*

14 *(b) (1) A city, county, or city and county shall grant one density*
15 *bonus, the amount of which shall be as specified in subdivision*
16 *(f), and and, if requested by the applicant and consistent with the*
17 *applicable requirements of this section, incentives or concessions,*
18 *as described in subdivision (d), waivers or reductions of*
19 *development standards, as described in subdivision (e), and*
20 *parking ratios, as described in subdivision (p), when an applicant*
21 *for a housing development seeks and agrees to construct a housing*
22 *development, excluding any units permitted by the density bonus*
23 *awarded pursuant to this section, that will contain at least any one*
24 *of the following:*

25 *(A) Ten percent of the total units of a housing development for*
26 *lower income households, as defined in Section 50079.5 of the*
27 *Health and Safety Code.*

28 *(B) Five percent of the total units of a housing development for*
29 *very low income households, as defined in Section 50105 of the*
30 *Health and Safety Code.*

31 *(C) A senior citizen housing development, as defined in Sections*
32 *51.3 and 51.12 of the Civil Code, or a mobilehome park that limits*
33 *residency based on age requirements for housing for older persons*
34 *pursuant to Section 798.76 or 799.5 of the Civil Code.*

35 *(D) Ten percent of the total dwelling units in a common interest*
36 *development, as defined in Section 4100 of the Civil Code, for*
37 *persons and families of moderate income, as defined in Section*
38 *50093 of the Health and Safety Code, provided that all units in the*
39 *development are offered to the public for purchase.*

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, “total units” or “total dwelling units” does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller’s proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government’s initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment

1 assistance or mortgage assistance. If upon resale the market value
2 is lower than the initial market value, then the value at the time of
3 the resale shall be used as the initial market value.

4 (C) For purposes of this subdivision, the local government's
5 proportionate share of appreciation shall be equal to the ratio of
6 the local government's initial subsidy to the fair market value of
7 the home at the time of initial sale.

8 (3) (A) An applicant shall be ineligible for a density bonus or
9 any other incentives or concessions under this section if the housing
10 development is proposed on any property that includes a parcel or
11 parcels on which rental dwelling units are or, if the dwelling units
12 have been vacated or demolished in the five-year period preceding
13 the application, have been subject to a recorded covenant,
14 ordinance, or law that restricts rents to levels affordable to persons
15 and families of lower or very low income; subject to any other
16 form of rent or price control through a public entity's valid exercise
17 of its police power; or occupied by lower or very low income
18 households, unless the proposed housing development replaces
19 those units, and either of the following applies:

20 (i) The proposed housing development, inclusive of the units
21 replaced pursuant to this paragraph, contains affordable units at
22 the percentages set forth in subdivision (b).

23 (ii) Each unit in the development, exclusive of a manager's unit
24 or units, is affordable to, and occupied by, either a lower or very
25 low income household.

26 (B) For the purposes of this paragraph, "replace" shall mean
27 either of the following:

28 (i) If any dwelling units described in subparagraph (A) are
29 occupied on the date of application, the proposed housing
30 development shall provide at least the same number of units of
31 equivalent size ~~or type, or both,~~ to be made available at affordable
32 rent or affordable housing cost to, and occupied by, persons and
33 families in the same or lower income category as those households
34 in occupancy. *If the income category of the household in occupancy*
35 *is not known, it shall be rebuttably presumed that lower income*
36 *renter households occupied these units in the same proportion of*
37 *lower income renter households to all renter households within*
38 *the jurisdiction, as determined by the most recently available data*
39 *from the United States Department of Housing and Urban*
40 *Development's Comprehensive Housing Affordability Strategy*

1 database. For unoccupied dwelling units described in subparagraph
2 (A) in a development with occupied units, the proposed housing
3 development shall provide units of equivalent size ~~or type, or both,~~
4 to be made available at affordable rent or affordable housing cost
5 to, and occupied by, persons and families in the same or lower
6 income category ~~in the same proportion of affordability as the~~
7 ~~occupied units; as the last household in occupancy. If the income~~
8 ~~category of the last household in occupancy is not known, it shall~~
9 ~~be rebuttably presumed that lower income renter households~~
10 ~~occupied these units in the same proportion of lower income renter~~
11 ~~households to all renter households within the jurisdiction, as~~
12 ~~determined by the most recently available data from the United~~
13 ~~States Department of Housing and Urban Development's~~
14 ~~Comprehensive Housing Affordability Strategy database. All~~
15 replacement calculations resulting in fractional units shall be
16 rounded up to the next whole number. If the replacement units will
17 be rental dwelling units, these units shall be subject to a recorded
18 affordability restriction for at least 55 years. If the proposed
19 development is for-sale units, the units replaced shall be subject
20 to paragraph (2).

21 (ii) If all dwelling units described in subparagraph (A) have
22 been vacated or demolished within the five-year period preceding
23 the application, the proposed housing development shall provide
24 at least the same number of units of equivalent size ~~or type, or~~
25 ~~both,~~ as existed at the highpoint of those units in the five-year
26 period preceding the application to be made available at affordable
27 rent or affordable housing cost to, and occupied by, persons and
28 families in the same or lower income category as those persons
29 and families in occupancy at that time, if known. If the incomes
30 of the persons and families in occupancy at the highpoint is not
31 known, ~~then one-half of the required units shall be made available~~
32 ~~at affordable rent or affordable housing cost to, and occupied by,~~
33 ~~it shall be rebuttably presumed that low-income and very low~~
34 ~~income renter households occupied these units in the same~~
35 ~~proportion of low-income and very low income persons and~~
36 ~~families and one-half of the required units shall be made available~~
37 ~~for rent at affordable housing costs to, and occupied by,~~
38 ~~low-income persons and families; renter households to all renter~~
39 ~~households within the jurisdiction, as determined by the most~~
40 ~~recently available data from the United States Department of~~

1 *Housing and Urban Development's Comprehensive Housing*
2 *Affordability Strategy database. All replacement calculations*
3 *resulting in fractional units shall be rounded up to the next whole*
4 *number. If the replacement units will be rental dwelling units,*
5 *these units shall be subject to a recorded affordability restriction*
6 *for at least 55 years. If the proposed development is for-sale units,*
7 *the units replaced shall be subject to paragraph (2).*

8 *(C) Notwithstanding subparagraph (B), for any dwelling unit*
9 *described in subparagraph (A) that is or was, within the five-year*
10 *period preceding the application, subject to a form of rent or price*
11 *control through a local government's valid exercise of its police*
12 *power and that is or was occupied by persons or families above*
13 *lower income, the city, county, or city and county may do either*
14 *of the following:*

15 *(i) Require that the replacement units be made available at*
16 *affordable rent or affordable housing cost to, and occupied by,*
17 *low-income persons or families. If the replacement units will be*
18 *rental dwelling units, these units shall be subject to a recorded*
19 *affordability restriction for at least 55 years. If the proposed*
20 *development is for-sale units, the units replaced shall be subject*
21 *to paragraph (2).*

22 *(ii) Require that the units be replaced in compliance with the*
23 *jurisdiction's rent or price control ordinance, provided that each*
24 *unit described in subparagraph (A) is replaced. Unless otherwise*
25 *required by the jurisdiction's rent or price control ordinance, these*
26 *units shall not be subject to a recorded affordability restriction.*

27 *(D) For purposes of this paragraph, "equivalent size" means*
28 *that the replacement units contain at least the same total number*
29 *of bedrooms as the units being replaced.*

30 ~~*(C) Paragraph (3) of subdivision (e)*~~

31 *(E) Subparagraph (A) does not apply to an applicant seeking*
32 *a density bonus for a proposed housing development if his or her*
33 *application was submitted to, or processed by, a city, county, or*
34 *city and county before January 1, 2015.*

35 *(d) (1) An applicant for a density bonus pursuant to subdivision*
36 *(b) may submit to a city, county, or city and county a proposal for*
37 *the specific incentives or concessions that the applicant requests*
38 *pursuant to this section, and may request a meeting with the city,*
39 *county, or city and county. The city, county, or city and county*
40 *shall grant the concession or incentive requested by the applicant*

1 unless the city, county, or city and county makes a written finding,
2 based upon substantial evidence, of any of the following:

3 (A) The concession or incentive ~~is does not required in order~~
4 *result in identifiable and actual cost reductions, consistent with*
5 *subdivision (k)*, to provide for affordable housing costs, as defined
6 in Section 50052.5 of the Health and Safety Code, or for rents for
7 the targeted units to be set as specified in subdivision (c).

8 (B) The concession or incentive would have a ~~specific~~ *specific*,
9 adverse impact, as defined in paragraph (2) of subdivision (d) of
10 Section 65589.5, upon public health and safety or the physical
11 environment or on any real property that is listed in the California
12 Register of Historical Resources and for which there is no feasible
13 method to satisfactorily mitigate or avoid the ~~specific~~ *specific*,
14 adverse impact without rendering the development unaffordable
15 to ~~low-~~ *low-income* and moderate-income households.

16 (C) The concession or incentive would be contrary to state or
17 federal law.

18 (2) The applicant shall receive the following number of
19 incentives or concessions:

20 (A) One incentive or concession for projects that include at least
21 10 percent of the total units for lower income households, at least
22 5 percent for very low income households, or at least 10 percent
23 for persons and families of moderate income in a common interest
24 development.

25 (B) Two incentives or concessions for projects that include at
26 least 20 percent of the total units for lower income households, at
27 least 10 percent for very low income households, or at least 20
28 percent for persons and families of moderate income in a common
29 interest development.

30 (C) Three incentives or concessions for projects that include at
31 least 30 percent of the total units for lower income households, at
32 least 15 percent for very low income households, or at least 30
33 percent for persons and families of moderate income in a common
34 interest development.

35 (3) The applicant may initiate judicial proceedings if the city,
36 county, or city and county refuses to grant a requested density
37 bonus, incentive, or concession. If a court finds that the refusal to
38 grant a requested density bonus, incentive, or concession is in
39 violation of this section, the court shall award the plaintiff
40 reasonable attorney's fees and costs of suit. Nothing in this

1 subdivision shall be interpreted to require a local government to
2 grant an incentive or concession that has a specific, adverse impact,
3 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
4 upon health, safety, or the physical environment, and for which
5 there is no feasible method to satisfactorily mitigate or avoid the
6 specific adverse impact. Nothing in this subdivision shall be
7 interpreted to require a local government to grant an incentive or
8 concession that would have an adverse impact on any real property
9 that is listed in the California Register of Historical Resources.
10 The city, county, or city and county shall establish procedures for
11 carrying out this section, that shall include legislative body
12 approval of the means of compliance with this section.

13 *(4) The city, county, or city and county shall bear the burden*
14 *of proof for the denial of a requested concession or incentive.*

15 (e) (1) In no case may a city, county, or city and county apply
16 any development standard that will have the effect of physically
17 precluding the construction of a development meeting the criteria
18 of subdivision (b) at the densities or with the concessions or
19 incentives permitted by this section. An applicant may submit to
20 a city, county, or city and county a proposal for the waiver or
21 reduction of development standards that will have the effect of
22 physically precluding the construction of a development meeting
23 the criteria of subdivision (b) at the densities or with the
24 concessions or incentives permitted under this section, and may
25 request a meeting with the city, county, or city and county. If a
26 court finds that the refusal to grant a waiver or reduction of
27 development standards is in violation of this section, the court
28 shall award the plaintiff reasonable attorney's fees and costs of
29 suit. Nothing in this subdivision shall be interpreted to require a
30 local government to waive or reduce development standards if the
31 waiver or reduction would have a specific, adverse impact, as
32 defined in paragraph (2) of subdivision (d) of Section 65589.5,
33 upon health, safety, or the physical environment, and for which
34 there is no feasible method to satisfactorily mitigate or avoid the
35 specific adverse impact. Nothing in this subdivision shall be
36 interpreted to require a local government to waive or reduce
37 development standards that would have an adverse impact on any
38 real property that is listed in the California Register of Historical
39 Resources, or to grant any waiver or reduction that would be
40 contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable *gross* residential density as of the date of application by the applicant to the city, county, or city and county. ~~The applicant may elect to accept county, or, if elected by the applicant, a lesser percentage of density bonus: increase, including, but not limited to, no increase in density.~~ The amount of density ~~bonus increase~~ to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5

1	9	30
2	10	32.5
3	11	35

4
 5 (3) For housing developments meeting the criteria of
 6 subparagraph (C) of paragraph (1) of subdivision (b), the density
 7 bonus shall be 20 percent of the number of senior housing units.

8 (4) For housing developments meeting the criteria of
 9 subparagraph (D) of paragraph (1) of subdivision (b), the density
 10 bonus shall be calculated as follows:

11		
12	Percentage Moderate-Income Units	Percentage Density Bonus
13	10	5
14	11	6
15	12	7
16	13	8
17	14	9
18	15	10
19	16	11
20	17	12
21	18	13
22	19	14
23	20	15
24	21	16
25	22	17
26	23	18
27	24	19
28	25	20
29	26	21
30	27	22
31	28	23
32	29	24
33	30	25
34	31	26
35	32	27
36	33	28
37	34	29
38	35	30
39	36	31
40	37	32

1	38	33
2	39	34
3	40	35

4

5 (5) All density calculations resulting in fractional units shall be
 6 rounded up to the next whole number. The granting of a density
 7 bonus shall not *require, or* be interpreted, in and of itself, to require
 8 a general plan amendment, local coastal plan amendment, zoning
 9 change, or other discretionary approval.

10 (g) (1) When an applicant for a tentative subdivision map,
 11 parcel map, or other residential development approval donates
 12 land to a city, county, or city and county in accordance with this
 13 subdivision, the applicant shall be entitled to a 15-percent increase
 14 above the otherwise maximum allowable residential density for
 15 the entire development, as follows:

16

17	Percentage Very Low Income	Percentage Density Bonus
18	10	15
19	11	16
20	12	17
21	13	18
22	14	19
23	15	20
24	16	21
25	17	22
26	18	23
27	19	24
28	20	25
29	21	26
30	22	27
31	23	28
32	24	29
33	25	30
34	26	31
35	27	32
36	28	33
37	29	34
38	30	35

39

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

1 (F) The land is transferred to the local agency or to a housing
2 developer approved by the local agency. The local agency may
3 require the applicant to identify and transfer the land to the
4 developer.

5 (G) The transferred land shall be within the boundary of the
6 proposed development or, if the local agency agrees, within
7 one-quarter mile of the boundary of the proposed development.

8 (H) A proposed source of funding for the very low income units
9 shall be identified not later than the date of approval of the final
10 subdivision map, parcel map, or residential development
11 application.

12 (h) (1) When an applicant proposes to construct a housing
13 development that conforms to the requirements of subdivision (b)
14 and includes a child care facility that will be located on the
15 premises of, as part of, or adjacent to, the project, the city, county,
16 or city and county shall grant either of the following:

17 (A) An additional density bonus that is an amount of square
18 feet of residential space that is equal to or greater than the amount
19 of square feet in the child care facility.

20 (B) An additional concession or incentive that contributes
21 significantly to the economic feasibility of the construction of the
22 child care facility.

23 (2) The city, county, or city and county shall require, as a
24 condition of approving the housing development, that the following
25 occur:

26 (A) The child care facility shall remain in operation for a period
27 of time that is as long as or longer than the period of time during
28 which the density bonus units are required to remain affordable
29 pursuant to subdivision (c).

30 (B) Of the children who attend the child care facility, the
31 children of very low income households, lower income households,
32 or families of moderate income shall equal a percentage that is
33 equal to or greater than the percentage of dwelling units that are
34 required for very low income households, lower income
35 households, or families of moderate income pursuant to subdivision
36 (b).

37 (3) Notwithstanding any requirement of this subdivision, a city,
38 county, or city and county shall not be required to provide a density
39 bonus or concession for a child care facility if it finds, based upon

1 substantial evidence, that the community has adequate child care
2 facilities.

3 (4) “Child care facility,” as used in this section, means a child
4 day care facility other than a family day care home, including, but
5 not limited to, infant centers, preschools, extended day care
6 facilities, and schoolage child care centers.

7 (i) “Housing development,” as used in this section, means a
8 development project for five or more residential ~~units~~; *units*,
9 *including mixed-use developments*. For the purposes of this section,
10 “housing development” also includes a subdivision or common
11 interest development, as defined in Section 4100 of the Civil Code,
12 approved by a city, county, or city and county and consists of
13 residential units or unimproved residential lots and either a project
14 to substantially rehabilitate and convert an existing commercial
15 building to residential use or the substantial rehabilitation of an
16 existing multifamily dwelling, as defined in subdivision (d) of
17 Section 65863.4, where the result of the rehabilitation would be a
18 net increase in available residential units. For the purpose of
19 calculating a density bonus, the residential units shall be on
20 contiguous sites that are the subject of one development
21 application, but do not have to be based upon individual
22 subdivision maps or parcels. The density bonus shall be permitted
23 in geographic areas of the housing development other than the
24 areas where the units for the lower income households are located.

25 (j) (1) The granting of a concession or incentive shall not
26 *require or* be interpreted, in and of itself, to require a general plan
27 amendment, local coastal plan amendment, zoning change, *study*,
28 or other discretionary approval. *For purposes of this subdivision,*
29 *“study” does not include reasonable documentation to establish*
30 *eligibility for the concession or incentive or to demonstrate that*
31 *the incentive or concession meets the definition set forth in*
32 *subdivision (k).* This provision is declaratory of existing law.

33 (2) Except as provided in subdivisions (d) and (e), the granting
34 of a density bonus shall not *require or* be interpreted to require
35 the waiver of a local ordinance or provisions of a local ordinance
36 unrelated to development standards.

37 (k) For the purposes of this chapter, concession or incentive
38 means any of the following:

39 (1) A reduction in site development standards or a modification
40 of zoning code requirements or architectural design requirements

1 that exceed the minimum building standards approved by the
2 California Building Standards Commission as provided in Part 2.5
3 (commencing with Section 18901) of Division 13 of the Health
4 and Safety Code, including, but not limited to, a reduction in
5 setback and square footage requirements and in the ratio of
6 vehicular parking spaces that would otherwise be required that
7 results in ~~identifiable, financially sufficient, identifiable~~ and actual
8 ~~cost reductions~~. *reductions, to provide for affordable housing costs,*
9 *as defined in Section 50052.5 of the Health and Safety Code, or*
10 *for rents for the targeted units to be set as specified in subdivision*
11 *(c).*

12 (2) Approval of mixed-use zoning in conjunction with the
13 housing project if commercial, office, industrial, or other land uses
14 will reduce the cost of the housing development and if the
15 commercial, office, industrial, or other land uses are compatible
16 with the housing project and the existing or planned development
17 in the area where the proposed housing project will be located.

18 (3) Other regulatory incentives or concessions proposed by the
19 developer or the city, county, or city and county that result in
20 ~~identifiable, financially sufficient, identifiable~~ and actual cost
21 ~~reductions~~. *reductions to provide for affordable housing costs, as*
22 *defined in Section 50052.5 of the Health and Safety Code, or for*
23 *rents for the targeted units to be set as specified in subdivision (c).*

24 (l) Subdivision (k) does not limit or require the provision of
25 direct financial incentives for the housing development, including
26 the provision of publicly owned land, by the city, county, or city
27 and county, or the waiver of fees or dedication requirements.

28 (m) This section does not supersede or in any way alter or lessen
29 the effect or application of the California Coastal Act of 1976
30 (Division 20 (commencing with Section 30000) of the Public
31 Resources Code).

32 (n) If permitted by local ordinance, nothing in this section shall
33 be construed to prohibit a city, county, or city and county from
34 granting a density bonus greater than what is described in this
35 section for a development that meets the requirements of this
36 section or from granting a proportionately lower density bonus
37 than what is required by this section for developments that do not
38 meet the requirements of this section.

39 (o) For purposes of this section, the following definitions shall
40 apply:

1 (1) "Development standard" includes a site or construction
2 condition, including, but not limited to, a height limitation, a
3 setback requirement, a floor area ratio, an onsite open-space
4 requirement, or a parking ratio that applies to a residential
5 development pursuant to any ordinance, general plan element,
6 specific plan, charter, or other local condition, law, policy,
7 resolution, or regulation.

8 (2) "Maximum allowable residential density" means the density
9 allowed under the zoning ordinance and land use element of the
10 general plan, ~~or~~ if a range of density is permitted, means the
11 maximum allowable density for the specific zoning range and land
12 use element of the general plan applicable to the project. Where
13 the density allowed under the zoning ordinance is inconsistent
14 with the density allowed under the land use element of the general
15 plan, the general plan density shall prevail.

16 (p) (1) Except as provided in paragraphs (2) and (3), upon the
17 request of the developer, a city, county, or city and county shall
18 not require a vehicular parking ratio, inclusive of handicapped and
19 guest parking, of a development meeting the criteria of subdivisions
20 (b) and (c), that exceeds the following ratios:

21 (A) Zero to one bedroom: one onsite parking space.

22 (B) Two to three bedrooms: two onsite parking spaces.

23 (C) Four and more bedrooms: two and one-half parking spaces.

24 (2) Notwithstanding paragraph (1), if a development includes
25 the maximum percentage of ~~low-~~ low-income or very low income
26 units provided for in paragraphs (1) and (2) of subdivision (f) and
27 is located within one-half mile of a major transit stop, as defined
28 in subdivision (b) of Section 21155 of the Public Resources Code,
29 and there is unobstructed access to the major transit stop from the
30 development, then, upon the request of the developer, a city,
31 county, or city and county shall not impose a vehicular parking
32 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
33 spaces per bedroom. For purposes of this subdivision, a
34 development shall have unobstructed access to a major transit stop
35 if a resident is able to access the major transit stop without
36 encountering natural or constructed impediments.

37 (3) Notwithstanding paragraph (1), if a development consists
38 solely of rental units, exclusive of a manager's unit or units, with
39 an affordable housing cost to lower income families, as provided
40 in Section 50052.5 of the Health and Safety Code, then, upon the

1 request of the developer, a city, county, or city and county shall
2 not impose a vehicular parking ratio, inclusive of handicapped and
3 guest parking, that exceeds the following ratios:

4 (A) If the development is located within one-half mile of a major
5 transit stop, as defined in subdivision (b) of Section 21155 of the
6 Public Resources Code, and there is unobstructed access to the
7 major transit stop from the development, the ratio shall not exceed
8 0.5 spaces per unit.

9 (B) If the development is a for-rent housing development for
10 individuals who are 62 years of age or older that complies with
11 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
12 0.5 spaces per unit. The development shall have either paratransit
13 service or unobstructed access, within one-half mile, to fixed bus
14 route service that operates at least eight times per day.

15 (C) If the development is a special needs housing development,
16 as defined in Section 51312 of the Health and Safety Code, the
17 ratio shall not exceed 0.3 spaces per unit. The development shall
18 have either paratransit service or unobstructed access, within
19 one-half mile, to fixed bus route service that operates at least eight
20 times per day.

21 (4) If the total number of parking spaces required for a
22 development is other than a whole number, the number shall be
23 rounded up to the next whole number. For purposes of this
24 subdivision, a development may provide on-site parking through
25 tandem parking or uncovered parking, but not through on-street
26 parking.

27 (5) This subdivision shall apply to a development that meets
28 the requirements of subdivisions (b) and (c), but only at the request
29 of the applicant. An applicant may request parking incentives or
30 concessions beyond those provided in this subdivision pursuant
31 to subdivision (d).

32 (6) This subdivision does not preclude a city, county, or city
33 and county from reducing or eliminating a parking requirement
34 for development projects of any type in any location.

35 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
36 city and county, or an independent consultant has conducted an
37 areawide or jurisdictionwide parking study in the last seven years,
38 then the city, county, or city and county may impose a higher
39 vehicular parking ratio not to exceed the ratio described in
40 paragraph (1), based upon substantial evidence found in the parking

study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for ~~low-~~ *low-income* and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(8) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

SEC. 1.7. Section 65915 of the Government Code is amended to read:

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall ~~provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.~~

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish

1 *eligibility for a requested density bonus, incentives or concessions,*
2 *as described in subdivision (d), waivers or reductions of*
3 *development standards, as described in subdivision (e), and*
4 *parking ratios, as described in subdivision (p).*

5 *(3) In order to provide for the expeditious processing of a*
6 *density bonus application, the local government shall do all of the*
7 *following:*

8 *(A) Adopt procedures and timelines for processing a density*
9 *bonus application.*

10 *(B) Provide a list of all documents and information required to*
11 *be submitted with the density bonus application in order for the*
12 *density bonus application to be deemed complete. This list shall*
13 *be consistent with this chapter.*

14 *(C) Notify the applicant for a density bonus whether the*
15 *application is complete in a manner consistent with Section 65943.*

16 *(b) (1) A city, county, or city and county shall grant one density*
17 *bonus, the amount of which shall be as specified in subdivision*
18 *(f), ~~and~~ and, if requested by the applicant and consistent with the*
19 *applicable requirements of this section, incentives or concessions,*
20 *as described in subdivision (d), waivers or reductions of*
21 *development standards, as described in subdivision (e), and*
22 *parking ratios, as described in subdivision (p), when an applicant*
23 *for a housing development seeks and agrees to construct a housing*
24 *development, excluding any units permitted by the density bonus*
25 *awarded pursuant to this section, that will contain at least any one*
26 *of the following:*

27 *(A) Ten percent of the total units of a housing development for*
28 *lower income households, as defined in Section 50079.5 of the*
29 *Health and Safety Code.*

30 *(B) Five percent of the total units of a housing development for*
31 *very low income households, as defined in Section 50105 of the*
32 *Health and Safety Code.*

33 *(C) A senior citizen housing development, as defined in Sections*
34 *51.3 and 51.12 of the Civil Code, or a mobilehome park that limits*
35 *residency based on age requirements for housing for older persons*
36 *pursuant to Section 798.76 or 799.5 of the Civil Code.*

37 *(D) Ten percent of the total dwelling units in a common interest*
38 *development, as defined in Section 4100 of the Civil Code, for*
39 *persons and families of moderate income, as defined in Section*

1 50093 of the Health and Safety Code, provided that all units in the
2 development are offered to the public for purchase.

3 *(E) Ten percent of the total units of a housing development for*
4 *transitional foster youth, as defined in Section 66025.9 of the*
5 *Education Code, disabled veterans, as defined in Section 18541,*
6 *or homeless persons, as defined in the federal McKinney-Vento*
7 *Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units*
8 *described in this subparagraph shall be subject to a recorded*
9 *affordability restriction of 55 years and shall be provided at the*
10 *same affordability level as very low income units.*

11 (2) For purposes of calculating the amount of the density bonus
12 pursuant to subdivision (f), an applicant who requests a density
13 bonus pursuant to this subdivision shall elect whether the bonus
14 shall be awarded on the basis of subparagraph (A), (B), (C), ~~or (D)~~
15 *(D), or (E) of paragraph (1).*

16 (3) For the purposes of this section, “total units” or “total
17 dwelling units” does not include units added by a density bonus
18 awarded pursuant to this section or any local law granting a greater
19 density bonus.

20 (c) (1) An applicant shall agree to, and the city, county, or city
21 and county shall ensure, the continued affordability of all very low
22 and low-income rental units that qualified the applicant for the
23 award of the density bonus for 55 years or a longer period of time
24 if required by the construction or mortgage financing assistance
25 program, mortgage insurance program, or rental subsidy program.
26 Rents for the lower income density bonus units shall be set at an
27 affordable rent as defined in Section 50053 of the Health and Safety
28 Code.

29 (2) An applicant shall agree to, and the city, county, or city and
30 county shall ensure that, the initial occupant of all for-sale units
31 that qualified the applicant for the award of the density bonus are
32 persons and families of very low, low, or moderate income, as
33 required, and that the units are offered at an affordable housing
34 cost, as that cost is defined in Section 50052.5 of the Health and
35 Safety Code. The local government shall enforce an equity sharing
36 agreement, unless it is in conflict with the requirements of another
37 public funding source or law. The following apply to the equity
38 sharing agreement:

39 (A) Upon resale, the seller of the unit shall retain the value of
40 any improvements, the downpayment, and the seller’s proportionate

1 share of appreciation. The local government shall recapture any
2 initial subsidy, as defined in subparagraph (B), and its proportionate
3 share of appreciation, as defined in subparagraph (C), which
4 amount shall be used within five years for any of the purposes
5 described in subdivision (e) of Section 33334.2 of the Health and
6 Safety Code that promote home ownership.

7 (B) For purposes of this subdivision, the local government's
8 initial subsidy shall be equal to the fair market value of the home
9 at the time of initial sale minus the initial sale price to the
10 moderate-income household, plus the amount of any downpayment
11 assistance or mortgage assistance. If upon resale the market value
12 is lower than the initial market value, then the value at the time of
13 the resale shall be used as the initial market value.

14 (C) For purposes of this subdivision, the local government's
15 proportionate share of appreciation shall be equal to the ratio of
16 the local government's initial subsidy to the fair market value of
17 the home at the time of initial sale.

18 (3) (A) An applicant shall be ineligible for a density bonus or
19 any other incentives or concessions under this section if the housing
20 development is proposed on any property that includes a parcel or
21 parcels on which rental dwelling units are or, if the dwelling units
22 have been vacated or demolished in the five-year period preceding
23 the application, have been subject to a recorded covenant,
24 ordinance, or law that restricts rents to levels affordable to persons
25 and families of lower or very low income; subject to any other
26 form of rent or price control through a public entity's valid exercise
27 of its police power; or occupied by lower or very low income
28 households, unless the proposed housing development replaces
29 those units, and either of the following applies:

30 (i) The proposed housing development, inclusive of the units
31 replaced pursuant to this paragraph, contains affordable units at
32 the percentages set forth in subdivision (b).

33 (ii) Each unit in the development, exclusive of a manager's unit
34 or units, is affordable to, and occupied by, either a lower or very
35 low income household.

36 (B) For the purposes of this paragraph, "replace" shall mean
37 either of the following:

38 (i) If any dwelling units described in subparagraph (A) are
39 occupied on the date of application, the proposed housing
40 development shall provide at least the same number of units of

equivalent size ~~or type, or both~~, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. *If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.* For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size ~~or type, or both~~, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category ~~in the same proportion of affordability as the occupied units.~~ *as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.* All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size ~~or type, or both~~, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not

1 known, then one-half of the required units shall be made available
2 at affordable rent or affordable housing cost to, and occupied by,
3 *it shall be rebuttably presumed that low-income and very low*
4 *income renter households occupied these units in the same*
5 *proportion of low-income and very low income persons and*
6 *families and one-half of the required units shall be made available*
7 *for rent at affordable housing costs to, and occupied by,*
8 *low-income persons and families; renter households to all renter*
9 *households within the jurisdiction, as determined by the most*
10 *recently available data from the United States Department of*
11 *Housing and Urban Development's Comprehensive Housing*
12 *Affordability Strategy database. All replacement calculations*
13 *resulting in fractional units shall be rounded up to the next whole*
14 *number. If the replacement units will be rental dwelling units,*
15 *these units shall be subject to a recorded affordability restriction*
16 *for at least 55 years. If the proposed development is for-sale units,*
17 *the units replaced shall be subject to paragraph (2).*

18 (C) *Notwithstanding subparagraph (B), for any dwelling unit*
19 *described in subparagraph (A) that is or was, within the five-year*
20 *period preceding the application, subject to a form of rent or price*
21 *control through a local government's valid exercise of its police*
22 *power and that is or was occupied by persons or families above*
23 *lower income, the city, county, or city and county may do either*
24 *of the following:*

25 (i) *Require that the replacement units be made available at*
26 *affordable rent or affordable housing cost to, and occupied by,*
27 *low-income persons or families. If the replacement units will be*
28 *rental dwelling units, these units shall be subject to a recorded*
29 *affordability restriction for at least 55 years. If the proposed*
30 *development is for-sale units, the units replaced shall be subject*
31 *to paragraph (2).*

32 (ii) *Require that the units be replaced in compliance with the*
33 *jurisdiction's rent or price control ordinance, provided that each*
34 *unit described in subparagraph (A) is replaced. Unless otherwise*
35 *required by the jurisdiction's rent or price control ordinance, these*
36 *units shall not be subject to a recorded affordability restriction.*

37 (D) *For purposes of this paragraph, "equivalent size" means*
38 *that the replacement units contain at least the same total number*
39 *of bedrooms as the units being replaced.*

40 (C) Paragraph (3) of subdivision (c)

1 (E) Subparagraph (A) does not apply to an applicant seeking
2 a density bonus for a proposed housing development if his or her
3 application was submitted to, or processed by, a city, county, or
4 city and county before January 1, 2015.

5 (d) (1) An applicant for a density bonus pursuant to subdivision
6 (b) may submit to a city, county, or city and county a proposal for
7 the specific incentives or concessions that the applicant requests
8 pursuant to this section, and may request a meeting with the city,
9 county, or city and county. The city, county, or city and county
10 shall grant the concession or incentive requested by the applicant
11 unless the city, county, or city and county makes a written finding,
12 based upon substantial evidence, of any of the following:

13 (A) The concession or incentive ~~is does not required in order~~
14 ~~result in identifiable and actual cost reductions, consistent with~~
15 ~~subdivision (k), to provide for affordable housing costs, as defined~~
16 ~~in Section 50052.5 of the Health and Safety Code, or for rents for~~
17 ~~the targeted units to be set as specified in subdivision (c).~~

18 (B) The concession or incentive would have a ~~specific~~ specific,
19 adverse impact, as defined in paragraph (2) of subdivision (d) of
20 Section 65589.5, upon public health and safety or the physical
21 environment or on any real property that is listed in the California
22 Register of Historical Resources and for which there is no feasible
23 method to satisfactorily mitigate or avoid the ~~specific~~ specific,
24 adverse impact without rendering the development unaffordable
25 to ~~low-~~ low-income and moderate-income households.

26 (C) The concession or incentive would be contrary to state or
27 federal law.

28 (2) The applicant shall receive the following number of
29 incentives or concessions:

30 (A) One incentive or concession for projects that include at least
31 10 percent of the total units for lower income households, at least
32 5 percent for very low income households, or at least 10 percent
33 for persons and families of moderate income in a common interest
34 development.

35 (B) Two incentives or concessions for projects that include at
36 least 20 percent of the total units for lower income households, at
37 least 10 percent for very low income households, or at least 20
38 percent for persons and families of moderate income in a common
39 interest development.

1 (C) Three incentives or concessions for projects that include at
2 least 30 percent of the total units for lower income households, at
3 least 15 percent for very low income households, or at least 30
4 percent for persons and families of moderate income in a common
5 interest development.

6 (3) The applicant may initiate judicial proceedings if the city,
7 county, or city and county refuses to grant a requested density
8 bonus, incentive, or concession. If a court finds that the refusal to
9 grant a requested density bonus, incentive, or concession is in
10 violation of this section, the court shall award the plaintiff
11 reasonable attorney's fees and costs of suit. Nothing in this
12 subdivision shall be interpreted to require a local government to
13 grant an incentive or concession that has a specific, adverse impact,
14 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
15 upon health, safety, or the physical environment, and for which
16 there is no feasible method to satisfactorily mitigate or avoid the
17 specific adverse impact. Nothing in this subdivision shall be
18 interpreted to require a local government to grant an incentive or
19 concession that would have an adverse impact on any real property
20 that is listed in the California Register of Historical Resources.
21 The city, county, or city and county shall establish procedures for
22 carrying out this section, that shall include legislative body
23 approval of the means of compliance with this section.

24 (4) *The city, county, or city and county shall bear the burden*
25 *of proof for the denial of a requested concession or incentive.*

26 (e) (1) In no case may a city, county, or city and county apply
27 any development standard that will have the effect of physically
28 precluding the construction of a development meeting the criteria
29 of subdivision (b) at the densities or with the concessions or
30 incentives permitted by this section. An applicant may submit to
31 a city, county, or city and county a proposal for the waiver or
32 reduction of development standards that will have the effect of
33 physically precluding the construction of a development meeting
34 the criteria of subdivision (b) at the densities or with the
35 concessions or incentives permitted under this section, and may
36 request a meeting with the city, county, or city and county. If a
37 court finds that the refusal to grant a waiver or reduction of
38 development standards is in violation of this section, the court
39 shall award the plaintiff reasonable attorney's fees and costs of
40 suit. Nothing in this subdivision shall be interpreted to require a

1 local government to waive or reduce development standards if the
 2 waiver or reduction would have a specific, adverse impact, as
 3 defined in paragraph (2) of subdivision (d) of Section 65589.5,
 4 upon health, safety, or the physical environment, and for which
 5 there is no feasible method to satisfactorily mitigate or avoid the
 6 specific adverse impact. Nothing in this subdivision shall be
 7 interpreted to require a local government to waive or reduce
 8 development standards that would have an adverse impact on any
 9 real property that is listed in the California Register of Historical
 10 Resources, or to grant any waiver or reduction that would be
 11 contrary to state or federal law.

12 (2) A proposal for the waiver or reduction of development
 13 standards pursuant to this subdivision shall neither reduce nor
 14 increase the number of incentives or concessions to which the
 15 applicant is entitled pursuant to subdivision (d).

16 (f) For the purposes of this chapter, “density bonus” means a
 17 density increase over the otherwise maximum allowable *gross*
 18 residential density as of the date of application by the applicant to
 19 the city, county, or city and county. ~~The applicant may elect to~~
 20 ~~accept county, or, if elected by the applicant, a lesser percentage~~
 21 ~~of density bonus. increase, including, but not limited to, no increase~~
 22 ~~in density.~~ The amount of density ~~bonus~~ increase to which the
 23 applicant is entitled shall vary according to the amount by which
 24 the percentage of affordable housing units exceeds the percentage
 25 established in subdivision (b).

26 (1) For housing developments meeting the criteria of
 27 subparagraph (A) of paragraph (1) of subdivision (b), the density
 28 bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5

1 20 35

2
3 (2) For housing developments meeting the criteria of
4 subparagraph (B) of paragraph (1) of subdivision (b), the density
5 bonus shall be calculated as follows:
6

7 Percentage Very Low Income Units	Percentage Density Bonus
8 5	20
9 6	22.5
10 7	25
11 8	27.5
12 9	30
13 10	32.5
14 11	35

15
16 (3) (A) For housing developments meeting the criteria of
17 subparagraph (C) of paragraph (1) of subdivision (b), the density
18 bonus shall be 20 percent of the number of senior housing units.

19 *(B) For housing developments meeting the criteria of*
20 *subparagraph (E) of paragraph (1) of subdivision (b), the density*
21 *bonus shall be 20 percent of the number of the type of units giving*
22 *rise to a density bonus under that subparagraph.*

23 (4) For housing developments meeting the criteria of
24 subparagraph (D) of paragraph (1) of subdivision (b), the density
25 bonus shall be calculated as follows:
26

27 Percentage Moderate-Income Units	Percentage Density Bonus
28 10	5
29 11	6
30 12	7
31 13	8
32 14	9
33 15	10
34 16	11
35 17	12
36 18	13
37 19	14
38 20	15
39 21	16
40 22	17

1	23	18
2	24	19
3	25	20
4	26	21
5	27	22
6	28	23
7	29	24
8	30	25
9	31	26
10	32	27
11	33	28
12	34	29
13	35	30
14	36	31
15	37	32
16	38	33
17	39	34
18	40	35
19		

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not *require, or* be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

	Percentage Very Low Income	Percentage Density Bonus
31		
32		
33	10	15
34	11	16
35	12	17
36	13	18
37	14	19
38	15	20
39	16	21
40	17	22

1	18	23
2	19	24
3	20	25
4	21	26
5	22	27
6	23	28
7	24	29
8	25	30
9	26	31
10	27	32
11	28	33
12	29	34
13	30	35

14

15 (2) This increase shall be in addition to any increase in density
16 mandated by subdivision (b), up to a maximum combined mandated
17 density increase of 35 percent if an applicant seeks an increase
18 pursuant to both this subdivision and subdivision (b). All density
19 calculations resulting in fractional units shall be rounded up to the
20 next whole number. Nothing in this subdivision shall be construed
21 to enlarge or diminish the authority of a city, county, or city and
22 county to require a developer to donate land as a condition of
23 development. An applicant shall be eligible for the increased
24 density bonus described in this subdivision if all of the following
25 conditions are met:

26 (A) The applicant donates and transfers the land no later than
27 the date of approval of the final subdivision map, parcel map, or
28 residential development application.

29 (B) The developable acreage and zoning classification of the
30 land being transferred are sufficient to permit construction of units
31 affordable to very low income households in an amount not less
32 than 10 percent of the number of residential units of the proposed
33 development.

34 (C) The transferred land is at least one acre in size or of
35 sufficient size to permit development of at least 40 units, has the
36 appropriate general plan designation, is appropriately zoned with
37 appropriate development standards for development at the density
38 described in paragraph (3) of subdivision (c) of Section 65583.2,
39 and is or will be served by adequate public facilities and
40 infrastructure.

1 (D) The transferred land shall have all of the permits and
2 approvals, other than building permits, necessary for the
3 development of the very low income housing units on the
4 transferred land, not later than the date of approval of the final
5 subdivision map, parcel map, or residential development
6 application, except that the local government may subject the
7 proposed development to subsequent design review to the extent
8 authorized by subdivision (i) of Section 65583.2 if the design is
9 not reviewed by the local government prior to the time of transfer.

10 (E) The transferred land and the affordable units shall be subject
11 to a deed restriction ensuring continued affordability of the units
12 consistent with paragraphs (1) and (2) of subdivision (c), which
13 shall be recorded on the property at the time of the transfer.

14 (F) The land is transferred to the local agency or to a housing
15 developer approved by the local agency. The local agency may
16 require the applicant to identify and transfer the land to the
17 developer.

18 (G) The transferred land shall be within the boundary of the
19 proposed development or, if the local agency agrees, within
20 one-quarter mile of the boundary of the proposed development.

21 (H) A proposed source of funding for the very low income units
22 shall be identified not later than the date of approval of the final
23 subdivision map, parcel map, or residential development
24 application.

25 (h) (1) When an applicant proposes to construct a housing
26 development that conforms to the requirements of subdivision (b)
27 and includes a child care facility that will be located on the
28 premises of, as part of, or adjacent to, the project, the city, county,
29 or city and county shall grant either of the following:

30 (A) An additional density bonus that is an amount of square
31 feet of residential space that is equal to or greater than the amount
32 of square feet in the child care facility.

33 (B) An additional concession or incentive that contributes
34 significantly to the economic feasibility of the construction of the
35 child care facility.

36 (2) The city, county, or city and county shall require, as a
37 condition of approving the housing development, that the following
38 occur:

39 (A) The child care facility shall remain in operation for a period
40 of time that is as long as or longer than the period of time during

1 which the density bonus units are required to remain affordable
2 pursuant to subdivision (c).

3 (B) Of the children who attend the child care facility, the
4 children of very low income households, lower income households,
5 or families of moderate income shall equal a percentage that is
6 equal to or greater than the percentage of dwelling units that are
7 required for very low income households, lower income
8 households, or families of moderate income pursuant to subdivision
9 (b).

10 (3) Notwithstanding any requirement of this subdivision, a city,
11 county, or city and county shall not be required to provide a density
12 bonus or concession for a child care facility if it finds, based upon
13 substantial evidence, that the community has adequate child care
14 facilities.

15 (4) “Child care facility,” as used in this section, means a child
16 day care facility other than a family day care home, including, but
17 not limited to, infant centers, preschools, extended day care
18 facilities, and schoolage child care centers.

19 (i) “Housing development,” as used in this section, means a
20 development project for five or more residential ~~units~~; *units*,
21 *including mixed-use developments*. For the purposes of this section,
22 “housing development” also includes a subdivision or common
23 interest development, as defined in Section 4100 of the Civil Code,
24 approved by a city, county, or city and county and consists of
25 residential units or unimproved residential lots and either a project
26 to substantially rehabilitate and convert an existing commercial
27 building to residential use or the substantial rehabilitation of an
28 existing multifamily dwelling, as defined in subdivision (d) of
29 Section 65863.4, where the result of the rehabilitation would be a
30 net increase in available residential units. For the purpose of
31 calculating a density bonus, the residential units shall be on
32 contiguous sites that are the subject of one development
33 application, but do not have to be based upon individual
34 subdivision maps or parcels. The density bonus shall be permitted
35 in geographic areas of the housing development other than the
36 areas where the units for the lower income households are located.

37 (j) (1) The granting of a concession or incentive shall not
38 *require or* be interpreted, in and of itself, to require a general plan
39 amendment, local coastal plan amendment, zoning change, *study*,
40 or other discretionary approval. *For purposes of this subdivision,*

1 “study” does not include reasonable documentation to establish
2 eligibility for the concession or incentive or to demonstrate that
3 the incentive or concession meets the definition set forth in
4 subdivision (k). This provision is declaratory of existing law.

5 (2) Except as provided in subdivisions (d) and (e), the granting
6 of a density bonus shall not *require or* be interpreted to require
7 the waiver of a local ordinance or provisions of a local ordinance
8 unrelated to development standards.

9 (k) For the purposes of this chapter, concession or incentive
10 means any of the following:

11 (1) A reduction in site development standards or a modification
12 of zoning code requirements or architectural design requirements
13 that exceed the minimum building standards approved by the
14 California Building Standards Commission as provided in Part 2.5
15 (commencing with Section 18901) of Division 13 of the Health
16 and Safety Code, including, but not limited to, a reduction in
17 setback and square footage requirements and in the ratio of
18 vehicular parking spaces that would otherwise be required that
19 results in ~~identifiable, financially sufficient, identifiable~~ and actual
20 ~~cost reductions. reductions, to provide for affordable housing costs,~~
21 ~~as defined in Section 50052.5 of the Health and Safety Code, or~~
22 ~~for rents for the targeted units to be set as specified in subdivision~~
23 ~~(c).~~

24 (2) Approval of mixed-use zoning in conjunction with the
25 housing project if commercial, office, industrial, or other land uses
26 will reduce the cost of the housing development and if the
27 commercial, office, industrial, or other land uses are compatible
28 with the housing project and the existing or planned development
29 in the area where the proposed housing project will be located.

30 (3) Other regulatory incentives or concessions proposed by the
31 developer or the city, county, or city and county that result in
32 ~~identifiable, financially sufficient, identifiable~~ and actual cost
33 ~~reductions. reductions, to provide for affordable housing costs, as~~
34 ~~defined in Section 50052.5 of the Health and Safety Code, or for~~
35 ~~rents for the targeted units to be set as specified in subdivision (c).~~

36 (l) Subdivision (k) does not limit or require the provision of
37 direct financial incentives for the housing development, including
38 the provision of publicly owned land, by the city, county, or city
39 and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, ~~or~~ if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2) and (3), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of ~~low-~~ low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined

1 in subdivision (b) of Section 21155 of the Public Resources Code,
2 and there is unobstructed access to the major transit stop from the
3 development, then, upon the request of the developer, a city,
4 county, or city and county shall not impose a vehicular parking
5 ratio, inclusive of handicapped and guest parking, that exceeds 0.5
6 spaces per bedroom. For purposes of this subdivision, a
7 development shall have unobstructed access to a major transit stop
8 if a resident is able to access the major transit stop without
9 encountering natural or constructed impediments.

10 (3) Notwithstanding paragraph (1), if a development consists
11 solely of rental units, exclusive of a manager's unit or units, with
12 an affordable housing cost to lower income families, as provided
13 in Section 50052.5 of the Health and Safety Code, then, upon the
14 request of the developer, a city, county, or city and county shall
15 not impose a vehicular parking ratio, inclusive of handicapped and
16 guest parking, that exceeds the following ratios:

17 (A) If the development is located within one-half mile of a major
18 transit stop, as defined in subdivision (b) of Section 21155 of the
19 Public Resources Code, and there is unobstructed access to the
20 major transit stop from the development, the ratio shall not exceed
21 0.5 spaces per unit.

22 (B) If the development is a for-rent housing development for
23 individuals who are 62 years of age or older that complies with
24 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
25 0.5 spaces per unit. The development shall have either paratransit
26 service or unobstructed access, within one-half mile, to fixed bus
27 route service that operates at least eight times per day.

28 (C) If the development is a special needs housing development,
29 as defined in Section 51312 of the Health and Safety Code, the
30 ratio shall not exceed 0.3 spaces per unit. The development shall
31 have either paratransit service or unobstructed access, within
32 one-half mile, to fixed bus route service that operates at least eight
33 times per day.

34 (4) If the total number of parking spaces required for a
35 development is other than a whole number, the number shall be
36 rounded up to the next whole number. For purposes of this
37 subdivision, a development may provide ~~on-site~~ *onsite* parking
38 through tandem parking or uncovered parking, but not through
39 ~~on-street~~ *onstreet* parking.

1 (5) This subdivision shall apply to a development that meets
2 the requirements of subdivisions (b) and (c), but only at the request
3 of the applicant. An applicant may request parking incentives or
4 concessions beyond those provided in this subdivision pursuant
5 to subdivision (d).

6 (6) This subdivision does not preclude a city, county, or city
7 and county from reducing or eliminating a parking requirement
8 for development projects of any type in any location.

9 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
10 city and county, or an independent consultant has conducted an
11 areawide or jurisdictionwide parking study in the last seven years,
12 then the city, county, or city and county may impose a higher
13 vehicular parking ratio not to exceed the ratio described in
14 paragraph (1), based upon substantial evidence found in the parking
15 study, that includes, but is not limited to, an analysis of parking
16 availability, differing levels of transit access, walkability access
17 to transit services, the potential for shared parking, the effect of
18 parking requirements on the cost of market-rate and subsidized
19 developments, and the lower rates of car ownership for ~~low-~~
20 *low-income* and very low income individuals, including seniors
21 and special needs individuals. The city, county, or city and county
22 shall pay the costs of any new study. The city, county, or city and
23 county shall make findings, based on a parking study completed
24 in conformity with this paragraph, supporting the need for the
25 higher parking ratio.

26 (8) *A request pursuant to this subdivision shall neither reduce*
27 *nor increase the number of incentives or concessions to which the*
28 *applicant is entitled pursuant to subdivision (d).*

29 (q) *Each component of any density calculation, including base*
30 *density and bonus density, resulting in fractional units shall be*
31 *separately rounded up to the next whole number. The Legislature*
32 *finds and declares that this provision is declaratory of existing*
33 *law.*

34 (r) *This chapter shall be interpreted liberally in favor of*
35 *producing the maximum number of total housing units.*

36 SEC. 2. (a) *Section 1.3 of this bill incorporates amendments*
37 *to Section 65915 of the Government Code proposed by both this*
38 *bill and Assembly Bill 2442. It shall only become operative if (1)*
39 *both bills are enacted and become effective on or before January*
40 *1, 2017, (2) each bill amends Section 65915 of the Government*

1 *Code, and (3) Assembly Bill 2501 is not enacted or as enacted*
2 *does not amend that section, and (4) this bill is enacted after*
3 *Assembly Bill 2442, in which case Sections 1, 1.5, and 1.7 of this*
4 *bill shall not become operative.*

5 *(b) Section 1.5 of this bill incorporates amendments to Section*
6 *65915 of the Government Code proposed by both this bill and*
7 *Assembly Bill 2501. It shall only become operative if (1) both bills*
8 *are enacted and become effective on or before January 1, 2017,*
9 *(2) each bill amends Section 65915 of the Government Code, (3)*
10 *Assembly Bill 2442 is not enacted or as enacted does not amend*
11 *that section, and (4) this bill is enacted after Assembly Bill 2501*
12 *in which case Sections 1, 1.3, and 1.7 of this bill shall not become*
13 *operative.*

14 *(c) Section 1.7 of this bill incorporates amendments to Section*
15 *65915 of the Government Code proposed by this bill, Assembly*
16 *Bill 2442, and Assembly Bill 2501. It shall only become operative*
17 *if (1) all three bills are enacted and become effective on or before*
18 *January 1, 2017, (2) all three bills amend Section 65915 of the*
19 *Government Code, and (3) this bill is enacted after Assembly Bill*
20 *2442 and Assembly Bill 2501, in which case Sections 1, 1.3, and*
21 *1.5 of this bill shall not become operative.*

22 ~~SEC. 2.~~

23 *SEC. 3.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.

O